

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**Cr. No. 05-1849 JH**

**DANA JARVIS,**

**Defendant.**

**ORDER REGARDING REQUEST FOR *FRANKS* HEARING**

This matter is before the Court on *Defendants' Joint Motion to Suppress the Fruit of Title III Wiretaps* [Doc. No. 1533], in which they request an evidentiary hearing pursuant to *Franks v. Delaware*, 438 U.S. 154 (1978). On September 17, 2009, this Court held a preliminary hearing to determine whether the Defendants were entitled to a full evidentiary hearing under *Franks*. In advance of the preliminary hearing, the parties submitted voluminous briefs and exhibits, and at the hearing counsel presented oral argument. After considering all of the foregoing, the Court concludes that the Defendants have come forward with enough evidence to make a "substantial preliminary showing" under *Franks*. Accordingly, the Court will conduct a full evidentiary hearing under *Franks*.

**IT IS HEREBY ORDERED** that counsel for Defendants and counsel for the United States must confer regarding the amount of time they will need to present evidence and argument at the *Franks* hearing, as well when they will be ready to proceed with the hearing. The parties must file a joint notice containing that information no later than December 9, 2009.

  
UNITED STATES DISTRICT JUDGE